

15.110 ALCOHOL AND DRUG TESTING OF DEPARTMENT PERSONNEL

Reference:

Administrative Regulation #52 (12/19/97)
Manual of Rules and Regulations – 2.26A/B, 6.01, 6.02, 6.03, 6.04, 11.01, 11.02, 11.03
Public Employees Assistance Program (PEAP)
Supervisor's Guide to Employee Alcohol/Drug Abuse

Definitions:

Abuse: the misuse of.

Alcohol: ethyl alcohol or ethanol.

Drugs: any substance taken into the body other than alcohol, which may impair one's mental faculties and/or physical performance.

Substance: alcohol or drug.

Purpose:

To set uniform guidelines for handling instances where Department personnel are suspected of substance abuse.

To protect the City's interests as well as the constitutional rights of individual employees while providing the citizens of the community a safe environment.

Specifically, the policy is designed to:

Develop a fair and equitable method for administering a random drug-testing program.

Protect the public, coworkers, and the involved employee from alcohol/drug related accidents.

Prevent losses in time, productivity, and unnecessary expenses that may result from employees performing their duties under the influence of alcohol/drugs.

Limit the potential for lawsuits against the City as a result of careless or negligent acts by alcohol/drug involved employees.

Discourage the use of illicit drugs.

Policy:

The Police Department encourages any member who believes he has a substance abuse problem to seek help through the Public Employees Assistance Program (PEAP) or the police psychologist.

Department employees with a substance abuse problem that voluntarily come forward prior to the notification for the random drug testing will not be subject to the disciplinary process. However, other administrative action may be necessary. For example, detailing the officer to a non-field assignment, suspension of police powers, etc. The officer will be returned to duty after successfully completing a drug rehabilitation program. The rehabilitation program may include follow-up drug testing.

Incidents involving possession, preparation for sale, or trafficking in illicit, controlled substances will be prosecuted according to state law. The Police Department will not invoke the administrative process (Rule 2.26) in criminal investigations. The investigating supervisor will give the employee the Miranda Warning and follow the rules of evidence.

Procedure:

A. On-Duty

1. In cases of suspected substance abuse, notify the shift officer in charge (OIC) of the district of occurrence.
2. If the member's unit of assignment is different from the district of occurrence, or the incident occurs outside the city limits, notify a supervisor from the member's unit. The suspected member's immediate supervisor will respond and participate in the investigation.
3. The investigating supervisor(s) will conduct a preliminary investigation. At least one supervisor of higher rank than the suspected employee will be involved in the investigation. They will determine if there is reasonable suspicion of substance abuse and to what extent the member is impaired.
 - a. Supervisors will examine bottles, flasks, or other containers they suspect may hold alcohol or drugs.
 - b. A second supervisor must confirm the reasonable suspicion of substance abuse.
4. If the investigating supervisor(s) determines there is reasonable suspicion of substance abuse:
 - a. Remove any firearm from the employee's possession.
 - b. Do not allow a member suspected of substance abuse to operate a motor vehicle.
 - c. Notify the member's unit commander.
 - 1) If on-duty, the unit commander will respond and participate in the investigation.

- 2) If off-duty, the unit commander may request the on-duty command officer to coordinate the investigation. The unit commander will respond when there is no on-duty command officer available to participate in the investigation.
 - d. Notify the on-duty command officer.
 - 1) The on-duty command officer will respond and, in the absence of the unit commander, participate in the investigation.
 - e. Contact a member of the Internal Investigations Section (IIS) using the Police Communications Section recall list.
 - 1) IIS will respond and conduct the investigation and will personally transport the member to the investigation site and test site.
 - 2) The investigating unit supervisor(s) will assist IIS in the testing and investigative process if requested.
5. Testing for substance abuse
- a. An IIS investigator will transport the member to the drug testing facility and will advise hospital personnel of the estimated time of arrival, and that a drug screen collector is needed to administer the drug test.
 - 1) CONSENTRA Medical Center, located at 4623 Wesley Avenue Suite C, Cincinnati, Ohio 45212, will administer drug tests Monday through Friday, 0800 hours to 1600 hours.
 - 2) The Jewish Hospital, Health Alliance, 4777 E. Galbraith Road, will administer drug tests from 1600 hours to 0800 hours and on weekends.
 - b. The hospital laboratory will obtain and analyze a urine specimen and send the results to the Employee Health Services (EHS) physician. All records pertaining to the test will remain confidential and restricted. Only authorized personnel will have access to the test results.
 - 1) If the test is positive, the member may select a city approved alternative laboratory and have the sample re-tested at his/her expense.
 - a) The officer will coordinate with IIS to schedule a retest of the sample.

- b) For chain of custody purposes, the city's medical provider will transfer the specimen directly to the alternative laboratory with appropriate entries made on an Evidence Submission Form.
- 6. If, upon conclusion of the testing and investigation process, the unit commander or on-duty command officer concludes a member is impaired due to substance abuse he will:
 - a. Direct the member to submit a Form 17 stating all pertinent information about the incident.
 - b. Relieve the member of duty (Rules 11.01, 11.02 and 11.03 of the Manual of Rules and Regulations).
- 7. Duties of the investigating supervisor
 - a. The investigating supervisor will provide transportation home or to a health care facility for a member relieved of duty. Do not permit the member to operate a motor vehicle.
 - b. Make a blotter note at the member's unit of assignment showing the time the member was relieved of duty.
 - c. Secure the member's badge, wreath, firearm, Taser and official identification in the unit's property room.
 - d. IIS, the investigating supervisor(s), and unit commander or on-duty command officer will prepare and submit required reports. State all pertinent information about the incident. Include the determination of reasonable suspicion and the physical/mental condition of the member at the time of the infraction. Distribute copies to:
 - 1) Police Chief
 - 2) Member's bureau commander
 - 3) Member's unit commander
 - 4) Investigating supervisor's unit
 - 5) IIS
- 8. Duties of the command officer
 - a. The on-duty command officer will notify the Police Chief before the member's next tour of duty. The command officer will recommend the return to duty or the suspension of the member. On weekends or holidays the command officer will notify the Administrative Duty Officer and make his recommendations.

- b. The Police Chief or Acting Police Chief will hold a hearing before the member's next tour of duty.
 - 1) IIS will notify the member to attend the hearing.
 - 2) The Police Chief will determine whether to suspend the member pending a disciplinary hearing or return the member to duty.

B. Off-Duty

- 1. Substance abuse by an off-duty Department member, acting in the capacity of or with the authority as a police officer, is subject to testing.
 - a. Investigating supervisor(s) determining reasonable suspicion of substance abuse which, in their opinion, caused, contributed to, or aggravated an action of misconduct will:
 - 1) Notify the appropriate command personnel and IIS following the same procedure as in Sections A.4.c., A.4.d., and A.4.e.
 - 2) If the command officer agrees, the employee will immediately be ordered to paid, on-duty status.
 - 3) Follow the on-duty procedure as in Section A.
- 2. If the incident is not related to the capacity of or authority as a police officer, handle the instance of substance abuse according to state law.
 - a. Notify the shift OIC of the district of occurrence.
 - 1) The shift OIC will notify the unit commander of the district of occurrence and the on-duty command officer.
 - b. Process off-duty Operating a Vehicle Under the Influence (OVI) offenses according to state law.
 - c. Handle incidents involving the possession, preparation for sale, or trafficking of illicit controlled substances according to state law.

C. Random Drug Testing for Sworn Personnel

- 1. The Police Department designed a random drug urinalysis-screening program to detect the use of dangerous, harmful, and detrimental substances, hallucinogens, and marijuana.
 - a. Sworn personnel should not use the prescription medication of a family member or coworker. It could result in a positive test.

2. CONSENTRA will conduct a nine panel urine drug screen for the drugs listed below. Testing for additional drugs may also be done.
 - a. Cannabinoids (Marijuana, Metabolite)
 - b. Benzoylecgonine (Cocaine, Metabolite)
 - c. Opiates (Codeine, Morphine, Hydrocodone, Hydromorphone, Oxycodone)
 - d. Amphetamines (Amphetamine, Methamphetamine)
 - e. Phencyclidine
 - f. Barbiturates (Phenobarbital, Secobarbital, Pentobarbital, Butalbital, Amobarbital)
 - g. Benzodiazepines (Oxazepam, Nordiazepam, Alpha OH-Alprazolam, Temazepam)
 - h. Propoxyphene
 - i. Methadone
 - j. Ecstasy
3. All sworn personnel are subject to random drug testing.
4. An independent computerized probability sampling process known as "Simple Random Selection with Replacement" will select sworn Department personnel for random drug testing. The program ensures each sworn employee has an equal probability of selection each time the Department initiates a random test.
5. The Police Chief will determine the frequency of testing.
6. Sworn members assigned to a high risk specialized assignment will be tested more frequently. This includes the command staff: Police Chief, assistant chiefs, and captains. It also includes sworn personnel assigned to IIS, Inspections Section, General Vice Enforcement Unit (GVEU), Regional Narcotics Unit (RENU), Street Corner Unit, Court Property Unit, Intelligence Unit, SWAT, DARE, district Violent Crime Squads, and the Disciplinary Advocate.
 - a. All sworn personnel will submit to urinalysis drug testing prior to being assigned (or detailed) and upon leaving any high risk specialized assignment.

- b. The supervisor of an officer entering or leaving a district Violent Crime Squad unit will notify Inspections Section of the drug test by fax, and include where he is transferred/detailed from and transferred/detailed to. This will include the officer's name, badge number, and the effective transfer/detail dates to and from the Violent Crime Squad.
- 7. Inspections Section will notify shift or unit supervisors when the computer selects any of their personnel for testing.
 - a. Officers utilizing sick time following the notification of drug testing will be tested on the date returning to work.
 - b. Officers attending training must respond for testing unless training is conducted outside of Hamilton County, Ohio or Boone County, Kentucky.
- 8. A Police Department supervisor will notify on-duty sworn personnel, randomly selected for drug screening, in writing by placing notification in the blotter.
 - a. The Inspections Section Commander will provide personnel selected for drug screening with a Form 96, Random Drug Testing Notification.
 - 1) Inspections Section will retain the original copy of the Form 96.
 - 2) The officer will retain a copy of the Form 96.
 - b. Off-duty sworn personnel will not be ordered to on-duty status for the purpose of random drug testing.
- 9. Officers will comply with the instructions received from the screening personnel at the collection site.
 - a. The officer must present his driver's license and police identification card to confirm his identity.
 - b. The bathroom facility of the testing area is private and secure.
 - 1) Testing personnel will search the facility before and after the sworn member provides the urine sample to ensure it is free of any foreign substances and document same.
 - 2) The testing person will place color dye in the toilet bowl water.
- 10. The officer being tested will remain at the collection site in full view of laboratory personnel, except while providing the sample, until an acceptable urine sample is produced by the employee (maximum of three hours).

- a. If the officer is unable to urinate (shy bladder) for the random drug test, the laboratory technician will allow the officer to consume up to 40 ounces of liquid. If the officer leaves without urinating before the three-hour limit, the officer will be deemed as having refused to take the test. The refusal will be seen as a positive drug test and appropriate action taken.
- b. Officers unable to urinate within the three-hour time limit will immediately be examined by a physician to determine if a health reason exists to prevent the individual from urinating. If the physician determines there is a health reason for not urinating, the test will be classified as indeterminate. The officer must have the problem medically corrected and submit to another drug test. If the physician determines no health reason exists to prevent the officer from urinating, the officer is deemed to have refused to take the test and appropriate action will be taken.
 - 1) If this occurs during normal work hours, the officer should immediately be taken to EHS to see a city physician. If this occurs during other than normal work hours, the officer should be immediately directed to see an emergency medical physician at The Jewish Hospital.

11. Method of Testing

- a. The urine sample will be split into two portions for testing purposes.
- b. The initial drug test will be an Enzyme Multiple Immunoassay Testing (EMIT) procedure performed on one of the specimen portions. This is a Substance Abuse Mental Health Services Administration (SAMHSA) certified method of testing.
 - 1) The second portion will be held for additional testing as outlined in Section C.12.
- c. If the initial drug screen test indicated a positive result, the laboratory will ensure a confirmation test is completed. The confirmation test will be a Gas Chromatography/Mass Spectrometry (GC/MS) procedure. This is also a SAMHSA certified method of testing.
- d. The Medical Review Officer (MRO) will contact the officer regarding the confirmed positive prescription drug test. The officer will have the opportunity to provide the MRO with a prescription drug container, along with the identity of the prescribing/dispensing physician or health care provider for confirmation. No other City employee or agent will be informed of the confirmed positive test until the verification is held.
 - 1) The MRO will contact the testing laboratory in an effort to verify the prescription drug presented by the officer matches the drug identified in the confirmed positive drug screen test.

- 2) If the prescription drug and the drug identified in the confirmed positive drug screen test match, the drug screen test will be considered a negative drug screen test result.
 - e. All records relating to the negative drug screen test will become part of the officer's medical record and remain confidential and restricted at EHS.
 - f. The testing laboratory will forward all test results only to the EHS physician in an envelope marked "Personal and Confidential".
 - g. The EHS physician will determine the duty status of the officer using the prescription drug.
 - h. EHS will immediately notify Inspections Section who will notify the Police Chief, the affected officer and the Fraternal Order of Police (FOP) President on all confirmed and verified positive drug screen results.
12. A sworn member whose drug screen test result is confirmed and verified positive may demand the second portion of the split urine specimen be tested by a SAMHSA certified laboratory of the officer's choosing.
- a. The officer must submit within ten working days following the date on which the officer received notification of the positive test result a written demand for a second test to the SAMHSA certified laboratory which processed the random drug screen sample and issued the positive test result.
 - b. The SAMHSA certified laboratory that issued the positive test result will, within 72 hours after receiving such written demand by the officer, send the second portion of the split urine sample to the SAMHSA certified laboratory chosen by the sworn employee for the second drug screen test.
 - c. Appropriate chain of custody procedures, mutually approved the City and the FOP, will be closely followed in all cases.
 - d. The officer will pay the re-testing expenses related to the second drug screen test. If the drug screen test from the laboratory chosen by the employee is negative, the city will fully reimburse the officer for the cost of the second drug screen test.
13. Civilian Employees
- a. Civilian employees are not covered by this random drug testing policy.
 - b. Civilian employees are subject to the Substance Abuse Policy approved by the City Manager.